

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

NEHEMIAS HUERTAS, JR.,

Plaintiff,

Case No. 2:19-cv-00592-BHL

v.

MICHAEL HAFEMAN, *et al.*,

Defendants.

LAURA SUKOWATY, MD'S RESPONSE TO PLAINTIFFS' MOTION TO COMPEL

Laura Sukowaty, MD, by her counsel Davis & Kuelthau, s.c., provides this response to Plaintiff's Motion to Compel Disclosure or Discovery (Doc. 91).

Response to Motion

Plaintiff asserted § 1983 claims against several correctional and healthcare staff asserting that they violated his rights during his confinement at the Milwaukee County Jail. Mainly, Plaintiff claims he received inadequate medical treatment—including receiving a medication to which he had an alleged allergy.

Plaintiff sent over 100 discovery requests to Dr. Sukowaty and her Health Services Unit colleagues joined in this suit. He now takes issue with Dr. Sukowaty's response to two Interrogatories directed to her.

First, Plaintiff requests the Court compel Dr. Sukowaty to provide specific information about seven (7) Doe defendants he wishes to join. His exact request is provided in full below but, in brevity, asks Dr. Sukowaty to ace a memory test by identifying health personal that worked during specific dates and shifts in 2019—more than two years ago.

Interrogatory No. 20: Defendant “Sukowaty”, identify the names of the nurses scheduled to work in the Milwaukee County Jail Facility Clinic For the following dates and shifts who were also assigned to perform prescribed dressing changes AKA wound care to the inmates located in Mr. Huertas housing location on:

- a. May 3, 2019 (First Shift)
- b. May 7, 2019 (First and Second Shift)
- c. May 18, 2019 (First and Second Shift)
- d. May 20, 2019 (First and Second Shift)
- e. May 21, 2019 (First and Second Shift)
- f. May 22, 2019 (First and Second Shift)
- g. May 27, 2019 (First and Second Shift)

RESPONSE *Dr. Sukowaty doesn't know this information.*

(Wiesner Decl., Ex. A p. 6).

Dr. Sukowaty no longer works at the Milwaukee County Jail (and is no longer employed with the private health contractor that provides health services at that facility) so she doesn't have access to employment or shift records or Plaintiff's medical charts from 2019. Therefore, she answered that she “doesn't know this information.”

Of note, Dr. Sukowaty has asked Plaintiff to execute and return authorizations for the release of his medical records, which would identify all health personnel involved in his 2019 care. These records, too, are available to Plaintiff.

Second, Plaintiff asks the Court to compel a supplemental response to Interrogatory No. 4, which is provided in full here with the response:

Interrogatory No. 4: Defendant “Sukowaty”, did you place notes on Huertas medical record stating “No true allergies” to Acetaminophen? If not who did so and based on what facts?

RESPONSE *Dr. Sukowaty believes she entered the note or instructed a nurse to do so.*

(Wiesner Decl., Ex. A p. 2). The question is posed in an either / or fashion. First it asks whether Dr. Sukowaty entered the order. If so, the inquiry ends. If not, it asks Dr. Sukowaty to ID the person who entered the order and the reason he or she did so. Dr. Sukowaty confirmed that she entered the note.

Nonetheless, Dr. Sukowaty disclosed to Plaintiff elsewhere in her responses her reason she didn't believe his allergy claims:

Request No. 10: Defendant "Sukowaty" admit that you had knowledge of Mr. Huertas allergies to Acetaminophen.

RESPONSE *Dr. Sukowaty admits that she was aware of Plaintiff's self-reported allergies. Dr. Sukowaty, however, denies this request to the extent it implies that Plaintiff suffered from a true allergy to the medication identified. Dr. Sukowaty, based on her experience and professional judgment and the clinical data available to her, did not reasonably believe Plaintiff suffered from the medication allergies he identified.*

(Wiesner Decl., Ex. A p. 13).

Dr. Sukowaty properly responded to Plaintiff's requests. She doesn't possess the identities of her nursing staff and doesn't have access to her former employer's records. She also properly ID'ed herself as the author of the allergy note and disclosed her reasons for disputing Plaintiff's self-identified allergy. She, therefore, asks the Court to deny Plaintiff's motion.

Conclusion

Dr. Sukowaty respectfully requests the Court deny Plaintiff's motion to compel.

Dated: May 14, 2021

Davis & Kuelthau, s.c.

By: Electronically signed by Ryan M. Wiesner

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